

§ 212.6

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and/or order of the Board, only one application need be filed, but it must conform to the earliest applicable filing deadline.

(e)(1) Any party in interest may file a memorandum supporting or opposing an application. Three copies of each memorandum shall be filed within 7 business days after service of the application or before the date of the proposed flight, whichever is earlier. Memoranda will be considered to the extent practicable; the Board may act on an application without waiting for supporting or opposing memoranda to be filed.

(2) Each memorandum shall set forth the reasons why the applications should be granted or denied, accompanied by whatever data, including affidavits, the Board is requested to consider.

(3) A copy of each memorandum shall be served on the foreign air carrier applying for approval.

(f)(1) Unless otherwise ordered by the Board, each application and memorandum filed in response shall be available for public inspection at the Regulatory Affairs Division of the Bureau of International Aviation immediately upon filing. Notice of the filing of all applications shall be published in the Board's Weekly List of Applications Filed.

(2) Any person objecting to public disclosure of any information in an application or memorandum must state the grounds for the objection in writing. If the Board finds that disclosure of all or part of the information would adversely affect the objecting person, and that the public interest does not require disclosure, it will order that the injurious information be withheld.

(Approved by the Office of Management and Budget under control number 3024-0015)

[ER-1220, 46 FR 28371, May 26, 1981, as amended by ER-1247, 46 FR 47769, Sept. 30, 1981; ER-1275, 47 FR 137, Jan. 5, 1982; ER-1341, 48 FR 31014, July 6, 1983]

§ 212.6 Issuance of authorization.

(a) The Board will issue a statement of authorization if it finds that the proposed charter trip meets the requirements of this part and that it is in the public interest. Statements of authorization may be conditioned or limited.

(b) In determining the public interest the Board will consider (but not be limited to) the following factors.

(1) The extent to which the authority sought is covered by and consistent with bilateral agreements to which the United States is a party.

(2) The extent to which the country of the carrier's nationality (and, in the case of a long-term wet lease, the country of the lessee's nationality) deals with United States air carriers on the basis of substantial reciprocity.

(3) Whether the foreign air carrier or its agent or the charterer or its agent has previously violated the provisions of this part.

(4) Where the application concerns a long-term wet lease:

(i) Whether the foreign air carrier or its agent or the lessee (charterer) or its agent has previously violated the provisions of part 207, 208, or 218 of this chapter.

(ii) Whether, because of the nature of the arrangement and the benefits involved, the authority sought should be the subject of a bilateral agreement.

(iii) To what extent the applicant owns or controls the lessee, or is owned or controlled by the lessee.

(c) The Board will submit any denial of an authorization specifically required under § 212.4(e) to the President of the United States at least 10 days before the proposed departure. The denial will be subject to stay or disapproval by the President within 10 days after it is submitted. A shorter period for Presidential review may be specified by the Board where the application for authorization is not timely or properly filed. Denial of a late-filed application need not be submitted to the President.

(d) The Board will publish notice of its actions on applications for statements of authorization in the Status of Charter Applications attachment to the Weekly List of Applications Filed. Interested persons may upon request obtain copies of letters or endorsed forms advising applicants of action taken on their applications.

[ER-1220, 46 FR 28371, May 26, 1981, as amended by ER-1247, 46 FR 47770, Sept. 30, 1981]